



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF THE INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS
TWO POTOMAC YARD
2733 SOUTH CRYSTAL DRIVE
ARLINGTON, VA 22202**

FINAL REPORT OF INVESTIGATION CONCERNING

**MISSING TSCA CBI DOCUMENTS-CCD/ [REDACTED]
OI-AR-2012-CAC-0015**

TABLE OF CONTENTS

Narrative	Section A
Entities and Individuals	Section B
Prosecutive Status	Section C
Exhibits	

Distribution:

Approvals:

Special Agent

Special Agent in Charge

**OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS**

CASE NO.: OI-AR-2012-CAC-0015 **DATE OPENED:** 11/03/2011

CASE TITLE: MISSING TSCA CBI **CASE AGENT:** [REDACTED]
DOCUMENTS-
CCD/[REDACTED]

CASE CATEGORY: EMPLOYEE INTEGRITY **OFFICE:** OFFICE OF
INVESTIGATIONS -
NORTHEASTERN
RESOURCE CENTER

JOINT AGENCIES: None

JURISDICTION: DISTRICT OF COLUMBIA

SECTION A - NARRATIVE

Predication

On July 15, 2011, this office was notified by [REDACTED] Operations Branch, Security Management Division, Environmental Protection Agency (EPA), Washington, DC that Toxic Substances Control Act (TSCA) Confidential Business Information (CBI) documents had allegedly been stolen from the [REDACTED] Branch [REDACTED], Chemical Control Division (CCD), Office of Pollution Prevention and Toxics (OPPT), EPA East Building, EPA, Washington, DC. Continued coordination with [REDACTED], Attorney-Advisor, Environmental Assistance Division, OPPT, EPA, Washington, DC determined [REDACTED] belief that there was no evidence to believe the documents were stolen but rather misplaced. As such this inquiry was originally closed pending [REDACTED] internal investigation. Subsequent coordination with [REDACTED] determined [REDACTED] office was unable to locate the missing documents therefore this inquiry was reinitiated. (Exhibits 1 and 2)

Possible violations:

1. TITLE 18 USC SEC 641, Embezzlement and theft of public money, property or records

Impact/Dollar Loss

Minimal impact. No identified monetary loss.

Synopsis

Investigation failed to locate the missing CBI material or identify the individual(s) responsible for removing the CBI material from its last known location.

Investigation did substantiate a possible violation of Section 4.6.2.2 (Record-Keeping For Temporary Transfers Within A Facility) of EPA's TSCA CBI Protection Manual (Oct 2003) by [REDACTED] CCD, OPPT, EPA, Washington, DC. According to Section 4.6.2.2, "If hand delivery is used, the TSCA CBI must be given directly to the recipient or a TSCA CBI cleared employee." The section further states, "If a transfer is made by hand delivery to another person within the same facility, the owner or originator of the transferred document may choose to obtain a signed loan receipt indicating that the document has been loaned. If a document is transferred and no loan receipt is obtained, the owner or originator of the document will be held responsible for any loss or unauthorized disclosure of the document."

Details

Allegation 1: Unknown individual(s) stole TSCA documents.

Allegation 1 Findings: On December 9, 2011, [REDACTED], OPPT, EPA, Washington, DC was interviewed. [REDACTED] described the missing documents to consist of one folder with two copies of a consent order inside. A green cover sheet was stapled on the cover. [REDACTED] recalled the documents went missing on July 15, 2011. [REDACTED] drafted these documents and brought them to [REDACTED] for review at approximately 1100. When [REDACTED] later returned to [REDACTED] own cubicle, at approximately 1240, [REDACTED] noticed a "post-it" note from [REDACTED]. The note concerned [REDACTED] asking how the briefing with [REDACTED] went and whether there were any issues. After reading the note [REDACTED] went to the [REDACTED] restroom where [REDACTED] saw [REDACTED]. [REDACTED] commented to [REDACTED] that [REDACTED] hoped [REDACTED] had signed the documents where [REDACTED] replied [REDACTED] did as [REDACTED] saw them on [REDACTED] chair. [REDACTED] informed [REDACTED] [REDACTED] had "flipped" through the folder and noticed [REDACTED] had signed the document. [REDACTED] did not believe the documents were sent out as a cover letter was never prepared. [REDACTED] related there is no rule stating CBI cannot be left on a chair. Further, as it's a "working paper," there's no signing the document in or out. A search was conducted to include recycle bins and pantries. [REDACTED] believed the missing documents were reported that same day to [REDACTED] EPA, Washington, DC. No one has ever taken anything from [REDACTED] cubicle in the past. (Exhibit 3)

On December 12, 2011, [REDACTED] OPPT, EPA, Washington, DC was interviewed. [REDACTED] recalled the incident of the missing CBI to have occurred on a Friday and confirmed noticing the documents on [REDACTED] chair. [REDACTED] had provided a briefing to [REDACTED] concerning these documents and [REDACTED] was invited, however [REDACTED] could not attend. [REDACTED] was interested to know whether [REDACTED] had signed the documents therefore [REDACTED] went to [REDACTED] chair and opened the folder. After [REDACTED] checked to see if the documents were signed [REDACTED] closed the folder and left. [REDACTED] was asked whether [REDACTED] had left a "post-it" note on [REDACTED] chair where [REDACTED] replied [REDACTED] may have and either left it on [REDACTED] chair or desk. [REDACTED] related [REDACTED] did not take the folder with [REDACTED] and confirmed it to be authorized to leave a CBI document on a chair. Later, when [REDACTED] returned from lunch, [REDACTED] ran into [REDACTED] in the [REDACTED] restroom. [REDACTED] asked [REDACTED] about [REDACTED] briefing to [REDACTED] and it was during this conversation [REDACTED] commented that the folder was not on [REDACTED] chair. (Exhibit 4)

On December 29, 2011, [REDACTED] CCD, OPPT, EPA, Washington, DC was interviewed. [REDACTED] confirmed this incident occurred July 15, 2011. According to [REDACTED] [REDACTED] had visited [REDACTED] office to brief [REDACTED] on a TSCA consent order. [REDACTED] believed someone, who [REDACTED] could not recall, was with [REDACTED] when [REDACTED] visited [REDACTED] office. After the briefing [REDACTED] asked [REDACTED] to leave the order with [REDACTED] so [REDACTED] could review it further and then sign. When the order was ready [REDACTED] called [REDACTED] to confirm whether [REDACTED] was at [REDACTED] cubicle. At approximately 1145, when [REDACTED] determined [REDACTED] was not there, [REDACTED] went to the [REDACTED] secure area. [REDACTED] may have attempted to visit [REDACTED] first. [REDACTED] believed there were other personnel in the area. After determining [REDACTED] was not in [REDACTED] office [REDACTED] went back to [REDACTED] cubicle and placed the order on [REDACTED] chair. It was explained to [REDACTED] [REDACTED] name did not show up as accessing the room on July 15 and further that it was learned [REDACTED] may have used the access card assigned to [REDACTED] CCD. [REDACTED] confirmed [REDACTED] had entered using [REDACTED] card explaining that when [REDACTED] left [REDACTED] office to return the order [REDACTED] had realized [REDACTED] had left [REDACTED] access card in [REDACTED] office. Noticing [REDACTED] standing near the secure area entrance, [REDACTED] asked [REDACTED] to let [REDACTED] in. [REDACTED] was asked how many times [REDACTED] entered the secure area that day as [REDACTED] name showed up twice on the access record. [REDACTED] confirmed [REDACTED] had only entered the secure area once. During this interview [REDACTED] recalled seeing [REDACTED] [REDACTED] Branch, CCD, OPPT, EPA, Washington, DC confirmed [REDACTED] did not return later to retrieve the order in order review it again. (Exhibit 5)

Interviews were conducted of the following EPA employees and contractors known to be located in the [REDACTED] secure area, or to have entered the area on July 15, which failed to provide any pertinent information in determining the location of the missing documents: [REDACTED] (Exhibits 6 through 12)

On February 15, 2012, [REDACTED] Branch, Economics, Exposure, and Technology Division, OPPT, EPA, Washington, DC was interviewed. [REDACTED] was previously identified as accessing the secure area [REDACTED] on July 15. [REDACTED] sees [REDACTED] everyday as [REDACTED] normally goes to the [REDACTED] secure area to either see [REDACTED] for different matters. [REDACTED] recalled being asked by [REDACTED] whether [REDACTED] had seen the consent order. [REDACTED] had heard [REDACTED] had left the consent order on [REDACTED] chair. [REDACTED] could not recall when [REDACTED] first heard the consent order was missing but did recall that, whatever the day it was determined missing, [REDACTED] did stop by [REDACTED] cubicle to see [REDACTED] [REDACTED] was not in [REDACTED] cubicle and [REDACTED] did not recall seeing the consent order. [REDACTED] recalled seeing an unidentified white male in the area down the hallway from where [REDACTED] cubicle was located but could only recall that the individual was not wearing a suit and had short hair. [REDACTED] only noticed this individual because [REDACTED] had never seen [REDACTED] before. [REDACTED] followed the individual "with [REDACTED] eyes" and noted [REDACTED] was going to a printer area. [REDACTED] clarified this printer area was not the closest printer area to [REDACTED] cubicle but further away, near the location of the building's elevators. [REDACTED] related that misplacing working documents does happen routinely but it never happens when the document is at the signature stage. [REDACTED] added [REDACTED] [REDACTED] believed it may say in the manual that one should not leave a CBI document unattended, even in the secure area. Subsequent to this interview [REDACTED] provided background information concerning the TSCA CBI manual. [REDACTED] cited various sections including "Section 4.6.2.2 Record Keeping For Temporary Transfers Within A Facility (pg. 67). (Exhibit 13)

A review of the [REDACTED] secure area's sign-in sheets for July 15, 2011, failed to provide pertinent information to assist with this investigation. (Exhibit 14)

On March 6, 2012, [REDACTED] was reinterviewed for clarification. [REDACTED] recalled [REDACTED] had walked past [REDACTED] in the hallway of the [REDACTED] secure area and the unidentified individual was walking behind [REDACTED]. [REDACTED] called out to [REDACTED] commenting, "You've got a puppy dog," meaning [REDACTED] had someone following [REDACTED]. [REDACTED] did not respond and [REDACTED] believed it was due to [REDACTED] not hearing [REDACTED]. [REDACTED] could not provide any further information concerning this incident. Concerning EPA's TSCA CBI manual, it was [REDACTED] belief that if an individual leaves CBI material on a chair, and it is later determined missing, that individual is responsible. [REDACTED] explained that a shift was made to move away from the strict handling guidelines for tracking CBI in order to make it easier to work with while within the EPA secure area. Therefore the concept of "working papers" came about. [REDACTED] was asked about an entry in the manual under Section 4.6.2.2 which stated, "Delivery by Hand – If hand delivery is used, the TSCA CBI must be given directly to the recipient or a TSCA CBI cleared employee." [REDACTED] advised that although this is what the policy states employees do sometimes leave CBI unattended in the secure area believing it's authorized. [REDACTED] believed there is a process mentioned in the manual addressing administrative penalties. (Exhibit 15)

Allegation 2: EPA Employee violated Section 4.6.2.2 of EPA's TSCA CBI Protection Manual

Allegation 2 Findings: On December 29, 2011, [REDACTED] was interviewed who related [REDACTED] had visited [REDACTED] office to brief [REDACTED] on the TSCA consent order. After the briefing [REDACTED] asked [REDACTED] to leave the consent order with [REDACTED] so [REDACTED] could review it further and then sign the document. When the consent order was ready [REDACTED] called [REDACTED] to confirm whether [REDACTED] was at [REDACTED] cubicle. At approximately 1145, when [REDACTED] determined [REDACTED] was not there, [REDACTED] went to the [REDACTED] secure area [REDACTED]. [REDACTED] may have attempted to visit [REDACTED] first. After determining [REDACTED] was not in [REDACTED] went back to [REDACTED] cubicle and placed the consent order on [REDACTED] chair. (Exhibit 5)

On February 15, 2012, [REDACTED] was interviewed. [REDACTED] it may say in the manual that one should not leave a CBI document unattended, even in the secure area. Subsequent to this interview [REDACTED] provided background information concerning the TSCA CBI manual. [REDACTED] cited various sections including "Section 4.6.2.2 Record Keeping For Temporary Transfers Within A Facility (pg. 67). (Exhibit 13)

On February 16, 2012, [REDACTED] was reinterviewed. [REDACTED] was unsure whether [REDACTED] agreed that in this case it was a violation but related [REDACTED] would have to think more about it. [REDACTED] did state that if [REDACTED] had not dropped the document on [REDACTED] chair then the document would not have gone missing. [REDACTED] added [REDACTED] possibly should have obtained a receipt. (Exhibit 16)

On March 6, 2012, [REDACTED] was reinterviewed. It was [REDACTED] belief that if an individual leaves CBI material on a chair, and it is later determined missing, that individual is responsible. [REDACTED] explained that a shift was made to move away from the strict handling guidelines for tracking CBI in order to make it easier to work with while within the EPA secure area. Therefore the concept of "working papers" came about. [REDACTED] was asked about an entry in the manual under Section 4.6.2.2 which stated, "Delivery by Hand – If hand delivery is used, the TSCA CBI must be given directly to the recipient or a TSCA CBI cleared employee." [REDACTED] advised that although this is what the policy states employees do sometimes leave CBI unattended in the secure area believing it's authorized. [REDACTED] believed there is a process mentioned in the manual addressing administrative penalties. (Exhibit 15)

Disposition

As no credible information was developed to identify the person(s) involved with moving the CBI documentation this inquiry was not presented to the Department of Justice for prosecution.

The results of this inquiry will be forwarded to [REDACTED] OPPT, Washington, DC for any action deemed necessary.

SECTION B – ENTITIES AND INDIVIDUALS

Name of Person: Unknown

Title & Company:

Role: Subject

Business Address:

Business Phone:

EPA Employee: N

SECTION C – PROSECUTIVE STATUS

ADMIN/CRIMINAL/CIVIL ACTION(S):

As no credible information was developed to identify the person(s) involved with moving the CBI documentation this inquiry was not presented to the Department of Justice for prosecution.

EXHIBITS

DESCRIPTION	EXHIBIT
MOA-07/20/2011-Notified of Internal Investigation by TSCA Attorney Adv...	1
MOI-10/31/2011-Contact with [REDACTED]	2
MOI-12/14/2011- Interview of [REDACTED], EPA (12/09/2011)	3
MOI-12/14/2011- Interview of [REDACTED], EPA (12/12/2011)	4
MOI-12/30/2011- Interview of [REDACTED], CCD, EPA (12/29/2011...	5
MOI-01/30/2012- Interview of [REDACTED], EPA (01/05/2012)	6
MOI-01/30/2012- Interview of [REDACTED], EPA (01/05/2012)	7
MOI-01/30/2012- Interview of [REDACTED], EPA (01/13/2012)	8
MOI-01/30/2012- Interview of [REDACTED], EPA (01/26/2012)	9
MOI-02/01/2012- Interview of [REDACTED], EPA (02/01/2012)	10
MOI-02/02/2012- Interview of [REDACTED], EPA (02/02/2012)	11
MOI-02/10/2012- Interview of [REDACTED], Contractor (02/08/2012)	12
MOI-02/16/2012- Interview of [REDACTED], EPA (02/15/2012)	13
MOA-02/21/2012- Review of Sign In sheets for [REDACTED] (02/21/2012)	14
MOI-03/07/2012- Reinterview of [REDACTED], EPA (03/06/2012)	15
MOI-03/01/2012- Reinterview of [REDACTED] (02/16/2012)	16